

Effective 5/14/2019

**Part 9
Community Renewable Energy Act**

54-17-901 Community Renewable Energy Act.

This part is known as the "Community Renewable Energy Act."

Enacted by Chapter 471, 2019 General Session

54-17-902 Definitions.

As used in this part:

- (1)
 - (a) "Auxiliary services" means those services necessary to safely and reliably:
 - (i) interconnect and transmit electric power from any renewable energy resource constructed or acquired for a community renewable energy program; and
 - (ii) integrate and supplement electric power from any renewable energy resource.
 - (b) "Auxiliary services" shall include applicable Federal Energy Regulatory Commission requirements governing transmission and interconnection services.
- (2) "Commission" means the Public Service Commission created in Section 54-1-1.
- (3) "Community renewable energy program" means the program approved by the commission under Section 54-17-904 that allows a qualified utility to provide electric service from one or more renewable energy resources to a participating customer within a participating community.
- (4) "County" means the unincorporated area of a county.
- (5) "Division" means the Division of Public Utilities created in Section 54-4a-1.
- (6)
 - (a) "Initial opt-out period" means the period of time immediately after the community renewable energy program's commencement, as established by the commission by rule made pursuant to Section 54-17-909, during which a participating customer may elect to leave the program without penalty.
 - (b) "Initial opt-out period" may not be shorter than three typical billing cycles of the qualified utility.
- (7) "Municipality" means a city or a town as defined in Section 10-1-104.
- (8) "Office" means the Office of Consumer Services created in Section 54-10a-101.
- (9) "Ongoing costs" means the costs allocated to the state for transmission and distribution facilities, retail services, and generation assets that are not replaced assets.
- (10) "Participating community" means a municipality or a county:
 - (a) whose residents are served by a qualified utility; and
 - (b) the municipality or county meets the requirements in Section 54-17-903.
- (11) "Participating customer" means:
 - (a) a customer of a qualified utility located within the boundary of a municipality or county where a community renewable energy program has been approved by the commission; and
 - (b) the customer has not exercised the right to not participate in the community renewable energy program as provided in Section 54-17-905.
- (12) "Qualified utility" means the same as that term is defined in Section 54-17-801.
- (13) "Renewable electric energy supply" means incremental renewable energy resources that are developed to meet the equivalent of the annual electric energy consumption of participating customers within a participating community.
- (14) "Renewable energy resource" means:

- (a) electric energy generated by a source that is naturally replenished and includes one or more of the following:
 - (i) wind;
 - (ii) solar photovoltaic or thermal solar technology;
 - (iii) a geothermal resource; or
 - (iv) a hydroelectric plant; or
 - (b) use of an energy efficient and sustainable technology the commission has approved for implementation that:
 - (i) increases efficient energy usage;
 - (ii) is capable of being used for demand response; or
 - (iii) facilitates the use and development of renewable generation resources through electrical grid management or energy storage.
- (15) "Replaced asset" means an existing thermal energy resource:
- (a) that was built or acquired, in whole or in part, by a qualified utility to serve the qualified utility's customers, including customers within a participating community;
 - (b) that was built or acquired prior to commission approval and the effective date of the community renewable energy program; and
 - (c) to the extent the asset is no longer used to serve participating customers.

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54-17-903 Program requirement for a municipality or county.

- (1) Customers of a qualified utility may be served by the community renewable energy program described in this part if the municipality or county satisfies the requirements of Subsection (2).
- (2) The municipality or county in which the customer resides shall:
 - (a) adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030;
 - (b) enter into an agreement with a qualified utility:
 - (i) with the stipulation of payment by the municipality or county to the qualified utility for the costs of:
 - (A) third-party expertise contracted for by the division and the office, for assistance with activities associated with initial approval of the community renewable energy program; and
 - (B) providing notice to the municipality's or county's customers as provided in Section 54-17-905;
 - (ii) determining the obligation for the payment of any termination charges under Subsection 54-17-905(3) that are not paid by a participating customer and not included in participating customer rates under Subsections 54-17-904(2) and (4); and
 - (iii) identifying any initially proposed replaced asset;
 - (c) adopt a local ordinance that:
 - (i) establishes participation in the renewable energy program; and
 - (ii) is consistent with the terms of the agreement entered into with the qualified utility under Subsection (2)(b); and
 - (d) comply with any other terms or conditions required by the commission.
- (3) The local ordinance required in Subsection (2)(c) shall be adopted by the municipality or county within 90 days after the date of the commission order approving the community renewable energy program.

Enacted by Chapter 471, 2019 General Session

54-17-904 Authority of commission to approve a community renewable energy program.

- (1) After the commission has adopted administrative rules as required under Section 54-17-909, a qualified utility may file an application with the commission for approval of a community renewable energy program.
- (2) The application shall include:
 - (a) the names of each municipality and county to be served by the community renewable energy program;
 - (b) a map of the geographic boundaries of each municipality and county;
 - (c) the number of customers served by the qualified utility within those boundaries;
 - (d) projected rates for participating customers that take into account:
 - (i) the estimated number of customers expected to participate in the program;
 - (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility, including as applicable:
 - (A) replaced assets;
 - (B) auxiliary services; and
 - (C) new renewable energy resources used to serve the community renewable energy program; and
 - (iii) the ongoing costs at the time of the application;
 - (e) the agreement entered into with the qualified utility under Section 54-17-903;
 - (f) a proposed plan established by the participating community addressing low-income programs and assistance;
 - (g) a proposed solicitation process for the acquisition of renewable energy resources as provided in Section 54-17-908; and
 - (h) any other information the commission may require by rule.
- (3) The commission may approve an application for a community renewable energy program if the commission finds:
 - (a) the application meets all of the requirements in this section and administrative rules adopted by the commission in accordance with Sections 54-17-908 and 54-17-909 to implement this part; and
 - (b) the community renewable energy program is in the public interest.
- (4) The rates approved by the commission for participating customers:
 - (a) shall be based on the factors included in Subsection (2)(d) and any other factor determined by the commission to be in the public interest;
 - (b) may not result in any shift of costs or benefits to any nonparticipating customer, or any other customer of the qualified utility beyond the participating community boundaries; and
 - (c) shall take into account any quantifiable benefits to the qualified utility, and the qualified utility's customers, including participating customers in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's costs of service.
- (5)
 - (a) Each municipality or county included in the application shall be a party to the regulatory proceeding.
 - (b) A municipality or county identified in the application shall provide information to all relevant parties in accordance with the commission's rules for discovery, notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act.

- (6) The community renewable energy program may not be implemented until after the municipality or county adopts the ordinance required in Section 54-17-903.

Enacted by Chapter 471, 2019 General Session

54-17-905 Customer participation -- Election not to participate.

- (1)
- (a) After commission approval of a community renewable energy program and adoption of the ordinance by the participating community as required in Section 54-17-903, a qualified utility shall provide notice to each of its customers within the participating community that includes:
 - (i) the projected rates and terms of participation in the community renewable energy program approved by the commission;
 - (ii) an estimated comparison to otherwise applicable existing rates;
 - (iii) an explanation that the customer may elect to not participate in the community renewable energy program by notifying the qualified utility; and
 - (iv) any other information required by the commission.
 - (b) The qualified utility shall provide the notice required under Subsection (1)(a) to each customer:
 - (i) no less than twice within the period of 60 days immediately preceding the date required to opt out of the community renewable energy program; and
 - (ii) separately from the customer's monthly billing.
 - (c) The qualified utility shall provide the information required under Subsection (1)(a) in person to each customer with an electric load of one megawatt or greater measured at a single meter.
- (2)
- (a) An existing customer of the qualified utility may elect to not participate in the community renewable energy program and continue to pay applicable existing rates by giving notice to the qualified utility in the manner and within the time period determined by the commission.
 - (b) After implementation of the community renewable energy program:
 - (i) a customer that previously elected not to participate in the program may become a participating customer as allowed by commission rules and by giving notice to the qualified utility in the manner required by the commission; and
 - (ii) a customer of the qualified utility that begins taking electric service within a participating community after the date of implementation of the community renewable energy program shall:
 - (A) be given notice as determined by the commission; and
 - (B) shall become a participating customer unless the person elects not to participate by giving notice to the qualified utility in the manner and within the time period determined by the commission.
- (3)
- (a) A customer that does not opt out of the community renewable energy program under Subsection (2) may later discontinue participation in the community renewable energy program as allowed by the commission as described in Subsection (3)(b) or (c).
 - (b)
 - (i) During the initial opt-out period, a participating customer may elect to leave the program by giving notice to the qualified utility in the manner determined by the commission.
 - (ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not subject to a termination charge.

- (c) After the community renewable energy program's initial opt-out period, a participating customer may elect to leave the program by:
 - (i) giving notice to the qualified utility in the manner determined by the commission; and
 - (ii) paying a termination charge as determined by the commission that may include the cost of renewable energy resources acquired or constructed for the community renewable energy program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers of the qualified utility.
- (4)
 - (a) A customer of a qualified utility that is annexed into the boundaries of a participating community after the effective date of the community renewable energy program shall be given notice as provided in Subsection (1) advising the customer of the option to opt out of the program.
 - (b) A participating customer located in a portion of a county that is annexed into a municipality that is not a participating community shall continue to be included in the renewable energy program if the customer remains a customer of the qualified utility.
 - (c) If a participating customer is annexed into a municipality that provides electric service to the municipality's residents:
 - (i) the customer may continue to be served by the qualified utility under the community renewable energy program if the qualified utility enters into an agreement with the municipality under Section 54-3-30; or
 - (ii) the municipality shall pay the termination charge for each participating customer that is no longer served by the qualified utility.
- (5) A residential customer that is participating in the net metering program under Title 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this part.
- (6)
 - (a) The cost of providing notice under Subsection (1) shall be paid by the participating communities.
 - (b) All other notices required under this section shall be paid for as program costs and recovered through participating customers' rates.

Enacted by Chapter 471, 2019 General Session

54-17-906 Customer billing.

The qualified utility shall:

- (1) include information on its monthly bills to participating customers identifying the community renewable energy program cost; and
- (2) provide notice to participating customers of any change in rate for participation in the community renewable energy program.

Enacted by Chapter 471, 2019 General Session

54-17-907 Rate adjustment filing -- Modification of rates for participating customers.

- (1)
 - (a) The qualified utility may make a rate adjustment filing, not more than annually, with the commission to adjust rates for participating customers to reflect any changes in the quantifiable costs and benefits of the community renewable energy program.
 - (b) The rate adjustment filing may not include any changes to ongoing costs.

- (2) The commission shall determine the content and filing requirements for the filing by administrative rules as described in Section 54-17-909.
- (3) The commission shall determine rate changes which shall become effective within 90 days after the date of the filing, unless otherwise determined by the commission for good cause.

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54-17-908 Acquisition of renewable energy resources.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules outlining a competitive solicitation process for the acquisition of renewable assets acquired by the qualified utility for purposes of this act.
- (2) The solicitation rules shall include the following provisions:
 - (a) solar photovoltaic or thermal solar energy facilities may be acquired under the provisions of Section 54-17-807;
 - (b) renewable energy resources developed under this part shall be constructed or acquired subject to an option by the qualified utility to own the renewable energy resource so long as including the option in a solicitation is in the interest of participating customers and other customers of the qualified utility; and
 - (c) any other requirement determined by the commission to be in the public interest.
- (3) Upon completion of a solicitation under this section and the rules adopted by the commission to implement this section, the commission may approve cost recovery for a renewable energy resource for the community renewable energy program if approval of the renewable energy resource:
 - (a) complies with the provisions of this part;
 - (b) does not result in shifting of costs or benefits to other customers of the qualified utility; and
 - (c) is in the public interest.

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54-17-909 Commission rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules to implement this part, including:

- (1) establishing the initial opt-out period;
- (2) the terms and conditions of the agreement under Section 54-17-903;
- (3) the content and filing of an application under Section 54-17-904;
- (4) the notice requirements under Section 54-17-905;
- (5) the standards for determining when a termination charge is applicable and the amount and timing of a termination charge under Subsection 54-17-905(3);
- (6) the content and filing requirements for the annual filing under Subsection 54-17-907(2);
- (7) the solicitation requirements under Section 54-17-908; and
- (8) any other requirements determined by the commission necessary to protect the public interest and to implement this part.

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